IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE A.GOPAL REDDY**

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**WRIT PETITION NO : 18625 of 2004**

Between:

1 K.Chandrasekhar, S/o.Raj Mallaiah,
R/o.Shivanagar Village, Jinnaram Mandal, Medak Dist.
2 P.Mallaiah, S/o.Sri Yellaiah,
R/o.Shivanagar Village, Jinnaram Mandal, Medak Dist.
3 V.Vettaiah, S/o.Mallaiah,
R/o.Shivanagar Village, Jinnaram Mandal, Medak Dist.
4 P.Narasimulu, S/o.Papaiah,
R/o.Shivanagar Village, Jinnaram Mandal, Medak Dist.

**..... PETITIONER(S)**

AND

1 The Joint Collector, Medak at Sanga Reddy.
2 The Revenue Divisional Officer, Medak at Sanga Reddy.
3 The Mandal Revenue Officer, Patancheruvu, Medak Dist.
4 Shri N.Goverdhan Rao, S/o. Vasudeva Rao,
R/o.Sultanpur village, Patancheruvu Mandal,
Medak Dist.

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the orders of the 1st respondent in setting aside the orders of the Revenue Divisional officer vide proceedings No.F3/5603/1998-F3/ROR/1998 dt.

04-10-2004 as arbitrary, illegal and violative of Article 14 of the Constitution of India and hence set aside the same.

**Counsel for the Petitioner:SMT.K.BINDU**

**Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE**

**Counsel for the Respondent No.4: Mr.C.PRATHAP REDDY**

**The Court at the stage of admission made the following ORDER:**

Heard the learned counsel for the petitioners, learned Government Pleader for Revenue appearing for

respondent Nos.1 to 3 and Mr.C.Prathap Reddy for respondent No.4.

The petitioners purchased the land to an extent of Acs.4-20 guntas in Survey No.254 in Chinnakanjarla Village, Patancheruvu Mandal, Medak district, under various sale deeds. Whereas the fourth respondent, who is claiming to be the purchaser of the said land under an agreement of sale dated 19-10-1995, which was later supplemented by a private sale deed dated 26-10-1995, approached the third respondent-Mandal Revenue Officer, Patancheruvu, Medak District, for validation of the sale deed and transfer of patta in his name stating that he deposited Rs.6,195/- on 19-09-1996 before the Sub-Registrar, Sanga Reddy, as per the valuation of the land under File No. G 1441/96. Then, the third respondent by his order dated 04-03-1997 ordered for mutation of fourth respondent's name in the revenue records 1989-90. Aggrieved by the same, the petitioners filed an appeal before the second respondent-Revenue Divisional Officer, Medak, under Section 5(5) of Record of Rights Act, 1971, who allowed the appeal and set aside the mutation, ordered in favour of the fourth respondent holding that the fourth respondent, who purchased the land under an agreement of sale, himself credited the stamp duty and registration fee in the Sub-Registrar office without there being any reference in Form No.12-A for impounding the document under Rule 22 of the Record of Rights Act. By that time, when the fourth respondent credited the amount, the sale deed executed in favour of the petitioners was in existence, which was prior to the validation of sale deed, if any. The person, who purchases the property under an unregistered sale deed, has to apply before the third respondent in Form No.10 for mutation of names in the revenue records. Then, the third respondent has to enquire the same after

issuing notices to the parties and the document should be referred to the Sub-Registrar in Form No.12-A for impounding the document under Rule 22 of the Record of Rights Act, 1971. On following such procedure, the purchaser can remit the stamp duty and registration fee into the Government Treasury through challan. After such deposit, the third respondent can issue 13-B certificate in favour of the purchaser of such land. Since none of the procedure has been followed, the order passed by the third respondent for mutating the name of the fourth respondent based upon the unregistered sale deed on depositing of the stamp duty and registration charges with the Sub-Registrar's office cannot be justified.

Aggrieved by the same, the fourth respondent carried the matter in Revision under Section 9 of A.P. Record of Rights in Land and Pattedar Pass Books Act, 1971 before the first respondent-Joint Collector, Medak district and the first respondent without adverting to any of the set of facts though admitted that the revision petitioner (fourth respondent) purchased the suit land under an unregistered sale deed got the same impounded by remitting the requisite stamp duty, observed that no where, in the MRO's file, the validation of transaction now being questioned was taken up under A.P. Record of Rights in Land and Pattedar Pass Books Act, 1971 and that no 13-B Certificate was issued in favour of the fourth respondent and also observed that the mutation was effected in respect of the suit lands in favour of the fourth respondent after calling for claims and objections and after getting the sale on the stamp paper which was executed by Mr. Dheeraj Prasad impounded and when the said validation was not dealt with under the provisions of A.P. Record of Rights in Land and Pattedar Pass Books Act, 1971, there is no need to observe the guidelines issued under the said Act. The transaction is said to have been appears validated under the provisions of the Indian Stamp Act after issuing notices calling for claims and objections. Accordingly, the first respondent set aside the order passed by the second respondent.

The first respondent having noticed that nowhere in MRO's file, the validation of transaction was taken up under A.P. Record of Rights Act and no 13-B certificate was issued, committed illegality in concluding that transaction appears to have been validated under the provisions of Indian Stamp Act, which procedure is unknown to law. The Revenue Divisional Officer rightly set aside the order so passed by the Mandal Revenue Officer in validating the sale and ordering mutation. The order passed by the first respondent in upholding validation of sale and ordering mutation

by MRO suffers from serious incurable legal infirmities cannot be sustained.

In view of the same, the impugned order is set aside. The order passed by the second respondent is restored. If the fourth respondent had any right pursuant to the agreement of sale, proper remedy for him is to approach the competent civil Court to establish the agreement of sale.

The writ petition is accordingly allowed. No costs.

13th OCTOBER, 2004.

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To

1 The Joint Collector, Medak at Sanga Reddy.
2 The Revenue Divisional Officer, Medak at Sanga Reddy.
3 The Mandal Revenue Officer, Patancheruvu, Medak Dist.
4 Two CCs to the Government Pleader for Revenue, A.P.High Court Buildings, Hyderabad (OUT).

5 Two CD copies.